

AMENDED IN ASSEMBLY JULY 3, 2003

AMENDED IN SENATE MAY 7, 2003

AMENDED IN SENATE APRIL 28, 2003

**SENATE BILL**

**No. 937**

**Introduced by Senator Ducheny**

**(Coauthors: Senators Bowen, Cedillo, Kuehl, and Soto)**

(Coauthors: Assembly Members Chan and Laird), Diaz, Koretz,  
Laird, and Nunez.)

February 21, 2003

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An act to amend Sections ~~1208~~, 1212, 1217, 1228, and 1231 of, and to add Sections 1218.1, 1218.2, 1226.1, 1226.2, 1226.3, and 1229.1 to, ~~and to add and repeal Section 1218.2 of,~~ the *the* Health and Safety Code, relating to clinics.

LEGISLATIVE COUNSEL'S DIGEST

SB 937, as amended, Ducheny. Clinics: licensure and operation.

(1) Under existing law, the State Department of Health Services regulates the licensure and operation of clinics, including community clinics and primary care clinics, as defined. ~~Existing law authorizes the department to provide consulting services upon request to any clinic to assist in the identification and correction of deficiencies.~~

Existing law requires any person, firm, association, partnership, or corporation desiring a license for a clinic or a special permit for special services to file a verified application with the department containing specified information.

~~Existing~~

*This bill would provide that an application is not required where a primary care clinic adds a service other than a special service, or*

*modifies an existing primary care clinic site, but would require the clinic to notify the department of the changes in service or physical plant within a specified time period.*

(2) Existing law authorizes the department to issue a *primary care clinic* license to an applicant only if it meets all requirements for ~~clinic~~ licensure, except that it proposes to operate its clinic out of an existing facility that does not satisfy certain applicable building requirements for the physical plant, provided that (A) the applicant establishes that, where possible and feasible, applicable building requirements have been met, and (B) the applicant submits a specified plan of modernization. Existing law authorizes the Director of Health Services to waive building requirements for primary care clinics when certain conditions are satisfied.

~~This bill would revise provisions relating to the licensure and operation of clinics, including authorizing the department to charge a reasonable fee for the above consulting services, not to exceed \$100 per hour, when the consulting services are provided onsite at the clinic or its administrative offices.~~

~~This bill would provide that an application is not required where a primary care clinic adds a service other than a special service, or modifies an existing primary care clinic site, but would require the clinic to notify the department of the changes in service or physical plant within a specified time period.~~

~~This bill would require, rather than authorize, the department to issue a license to a primary care clinic that meets specified building requirements.~~

~~This bill would also require, rather than authorize, the director to waive building requirements for primary care clinics when specified conditions are satisfied make these provisions mandatory, rather than discretionary, upon the department.~~

This bill would authorize a primary care clinic that has held a valid, unrevoked, and unsuspended license for at least *the last 5 years and that meets certain other requirements* to apply for, and receive, a license to establish an affiliate clinic, without *the necessity of the department* first conducting an initial onsite survey, in accordance with criteria set forth by the bill.

This bill would authorize ~~a 2 or more primary care clinic with more than one site~~ *clinics that are operated by a single nonprofit corporation* to consolidate ~~its~~ *their* administrative functions *without first obtaining the approval of the department*. This bill would ~~require a primary care~~

~~clinic to comply with specified state~~ *also specify* requirements applicable to a primary care clinic for the public health protection ~~for~~ of clinic ~~personnel and volunteers~~ workers. The bill would void any more stringent standard adopted before January 1, 2004.

~~(2)~~

(3) Existing law requires every clinic to be inspected, *no less than once every 2 years*, in accordance with specified criteria. Existing law exempts certain facilities from this inspection requirement.

This bill would, *instead, require these inspections, instead, no less than once every 3 years*. The bill would add a primary care clinic with specified accreditation to the list of clinics that are exempt from this inspection requirement.

~~(3)~~

(4) Existing law requires the department to notify a clinic of all deficiencies in its compliance with the provisions relating to clinic licensure and operations.

*The California Administrative Procedure Act generally sets forth the requirements for the adoption and revision of regulations, guidelines, and criteria by state agencies.*

This bill would prohibit the imposition of a notification of deficiency, fine, sanction, or denial, suspension, or revocation of licensure against a clinic for violation of a regulation, ~~under specified circumstances~~ *unless the regulation has been adopted pursuant to that act.*

~~(4)~~

(5) Existing law requires the Office of Statewide Health Planning and Development, in consultation with the Community Clinics Advisory Committee, to prescribe minimum construction standards for adequacy and safety for the physical plant of clinics.

This bill would require ~~the Director of Health Services to appoint a minimum~~ *that the committee consist of at least 15 members to the committee to be appointed by designated primary care clinic associations in the state*, and would specify requirements for membership and meetings. It would also specify the manner in which a clinic may establish compliance with the specified standards for construction adequacy and safety.

~~(5)~~

(6) Existing law requires a clinic to comply with licensing requirements, but allows a clinic to deviate from these requirements under certain circumstances, upon written request and substantiating

evidence submitted by the clinic, and with the prior written approval of the department.

This bill would state that a primary care clinic is deemed to have submitted substantiating evidence for use of alternatives to personnel requirements if the primary care clinic is in a medically underserved area or a health professional shortage area, or if the clinic serves a medically underserved ~~population~~.

~~(6)–population. In addition, where a licensee submits a single program flexibility request on behalf of more than one similarly situated primary care clinic, the bill would authorize the department to approve program flexibility requests as to each of the primary care clinics identified in the request.~~

(7) Under existing law, violation of the provisions relating to clinics is a misdemeanor.

By imposing new requirements on the licensure and operation of clinics, this bill would create new crimes, thereby imposing a state-mandated local program.

~~(7)–~~

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) California's primary care clinics are essential partners with  
4 the state in providing a health care safety net for underserved,  
5 uninsured, and underinsured populations in a cost-effective  
6 manner.

7 (b) California's primary care clinics generate significant  
8 savings to the state and to local communities by providing primary  
9 and preventive care that responds to patients' needs before medical  
10 problems become serious or life-threatening, and by reducing the  
11 reliance of patients, including the uninsured and underinsured, on

1 costly emergency room care, inpatient treatment and specialty  
2 care.

3 (c) Primary care clinics operate most similarly to private  
4 doctors' offices, but are required to comply with complicated,  
5 burdensome regulations more suited to hospitals, skilled nursing  
6 facilities, and other facilities intended to meet the 24-hour care  
7 needs of medically fragile patients.

8 (d) The need for primary care clinics is growing dramatically  
9 due to the continuing increase of uninsured and underinsured  
10 patients in California, an escalating unemployment rate, and a  
11 severely depressed economy.

12 (e) The current system of licensing primary care clinics is out  
13 of step with contemporary health care delivery systems, and  
14 results in a significant waste of taxpayer and community resources  
15 that could otherwise be devoted to patient care.

16 (f) Administrative streamlining of the licensure of new and  
17 continuing primary care clinics will result in substantial cost  
18 savings to the state and improved access to health care for  
19 underserved populations.

20 ~~SEC. 2. Section 1208 of the Health and Safety Code is~~  
21 ~~amended to read:~~

22 ~~1208. (a) The department may provide consulting services~~  
23 ~~upon request to any clinic to assist in the identification or~~  
24 ~~correction of deficiencies to ensure that a high quality of care is~~  
25 ~~provided by the clinic.~~

26 ~~(b) The department may charge a reasonable fee for the~~  
27 ~~services described in subdivision (a), not to exceed one hundred~~  
28 ~~dollars (\$100) per hour. This fee may be charged only for~~  
29 ~~consulting services provided onsite at the clinic or its~~  
30 ~~administrative offices. Under no circumstances shall the~~  
31 ~~department require a clinic to use the consulting services~~  
32 ~~authorized by this section.~~

33 ~~SEC. 3.—~~

34 ~~SEC. 2. Section 1212 of the Health and Safety Code is~~  
35 ~~amended to read:~~

36 1212. (a) Any person, firm, association, partnership, or  
37 corporation desiring a license for a clinic or a special permit for  
38 special services under the provisions of this chapter, shall file with  
39 the department a verified application on forms prescribed and  
40 furnished by the department, containing the following:

(1) Evidence satisfactory to the department that the applicant is of reputable and responsible character. If the applicant is a firm, association, partnership, trust, corporation, or other artificial or legal entity, like evidence shall be submitted as to the members, partners, trustees or shareholders, directors, and officers thereof and as to the person who is to be the administrator of, and exercise control, management, and direction of the clinic for which application is made.

(2) If the applicant is a partnership, the name and principal business address of each partner, and, if any partner is a corporation, the name and principal business address of each officer and director of the corporation and name and business address of each stockholder owning 10 percent or more of the stock thereof.

(3) If the applicant is a corporation, the name and principal business address of each officer and director of the corporation, and where the applicant is a stock corporation, the name and principal business address of each stockholder holding 10 percent or more of the applicant's stock and, where any stockholder is a corporation, the name and principal business address of each officer and director of the corporate stockholder.

(4) Evidence satisfactory to the department of the ability of the applicant to comply with the provisions of this chapter and rules and regulations promulgated under this chapter by the department.

(5) The name and address of the clinic, and if the applicant is a professional corporation, firm, partnership, or other form of organization, evidence that the applicant has complied with the requirements of the Business and Professions Code governing the use of fictitious names by practitioners of the healing arts.

(6) The name and address of the professional licentiate responsible for the professional activities of the clinic and the licentiate's license number and professional experience.

(7) The class of clinic to be operated, the character and scope of advice and treatment to be provided, and a complete description of the building, its location, facilities, equipment, apparatus, and appliances to be furnished and used in the operation of the clinic.

(8) Sufficient operational data to allow the department to determine the class of clinic that the applicant proposes to operate and the initial license fee to be charged.



(9) Any other information as may be required by the department for the proper administration and enforcement of this chapter, including, but not limited to, evidence that the clinic has a written policy relating to the dissemination of the following information to patients:

(A) A summary of current state laws requiring child passenger restraint systems to be used when transporting children in motor vehicles.

(B) A listing of child passenger restraint system programs located within the county, as required by Section 27360 or 27362 of the Vehicle Code.

(C) Information describing the risks of death or serious injury associated with the failure to utilize a child passenger restraint system.

(10) Applicants for a license or special permit covering a project within the meaning of Section 127170 shall submit a copy of a certificate of need as required by the department.

(b) (1) No application is required where a licensed primary care clinic adds a service that is not a special service, as defined in Section 1203, or any regulation adopted thereunder, or remodels or modifies an existing primary care clinic site. However, the clinic shall notify the department, in writing, of the change in service or physical plant no less than 60 days prior to adding the service or remodeling or modifying an existing primary care clinic site. Nothing in this subdivision shall be construed to limit the authority of the department to conduct an inspection at any time pursuant to Section 1227, in order to ensure compliance with, or to prevent a violation of, this chapter, or any regulation adopted under this chapter.

~~(2) Where the primary care clinic remodels or modifies its existing physical plant, the notification to the department shall include a signed statement from a licensed architect or a local building department that certifies that any physical alterations are in compliance with the minimum construction standards of adequacy and safety for the physical plant, pursuant to subdivision (b) of Section 1226 and that the individual signing the statement is competent to determine that compliance.~~

*(2) Where applicable city, county, or state law obligates the primary care clinic to obtain a building permit with respect to the remodeling or modification to be performed by the clinic, the*



1 notification to the department shall include a signed certification  
2 or statement as described in Section 1226.3.

3 (c) In the course of fulfilling its obligations under Section  
4 1221.09, the department shall ensure that any primary care clinic  
5 application form requiring information of the type specified in  
6 subdivisions (a), (d), (h), or (i) paragraph (1), (4), (8), or (9) of  
7 subdivision (a), is consistent with the requirements of Section  
8 1225, including the requirement that rules and regulations for  
9 primary care clinics be separate and distinct from the rules and  
10 regulations for specialty clinics.

11 (d) The department shall ensure that any information required  
12 for submission to the department pursuant to this chapter is  
13 specifically required by state or federal statute or regulation.

14 ~~SEC. 4.—~~

15 SEC. 3. Section 1217 of the Health and Safety Code is  
16 amended to read:

17 1217. (a) An applicant for a license to operate a primary care  
18 clinic, as specified in subdivision (a) of Section 1204 that meets  
19 all requirements for licensure under this chapter, except that it  
20 proposes to operate its clinic out of an existing facility that does  
21 not satisfy all of the applicable building requirements for the  
22 physical plant, other than fire and life safety requirements, shall be  
23 issued a license by the state department if both of the following  
24 requirements are met:

25 (1) The applicant establishes, by evidence satisfactory to the  
26 state department, that, where possible and feasible, the applicable  
27 building requirements have been met.

28 (2) The applicant submits a plan of modernization acceptable  
29 to the state department that sets forth the proposed changes to be  
30 made, during a period not to exceed three years from the date of  
31 initial licensure, to bring the applicant's facility into substantial  
32 conformance with applicable building requirements.

33 (b) Failure to complete the plan of modernization as approved  
34 and within the time allowed shall constitute a basis for revocation  
35 or nonrenewal of the applicant's license unless the applicant earlier  
36 applies for and obtains a waiver from the department. The director  
37 shall waive building requirements for primary care clinics where  
38 he or she determines all of the following conditions are met:

39 (1) That the requirements cannot be met by an applicant, or that  
40 they can be met only at an unreasonable and prohibitive cost.





(2) That the requirements are not essential to protect the health and safety of the clinic staff or the public it serves.

(3) That the granting of the waiver applied for is in the public interest.

~~SEC. 5.—~~

SEC. 4. Section 1218.1 is added to the Health and Safety Code, to read:

1218.1. (a) A primary care clinic that has held a valid, unrevoked, and unsuspended license for at least the immediately preceding five years, with no demonstrated history of willful and repeated violations of this chapter or any regulation adopted under this chapter *that directly affect patient safety*, and that has no pending action to suspend or revoke its license, may file an application under this section to establish a primary care clinic at an additional site, which shall hereafter be referred to as the affiliate clinic. The department, upon receipt of the completed application, shall issue a license to the affiliate clinic, without *the necessity of* first conducting an initial onsite survey, under the following conditions:

~~(a)–~~

(1) The existing primary care clinic, which shall hereafter be referred to as the parent clinic, has submitted a completed application for licensure for the affiliate clinic and the associated application fee.

~~(b)–~~

(2) The parent and affiliate clinics' corporate officers, as specified in Section 5213 of the Corporations Code, are the same.

~~(c)–~~

(3) The parent and affiliate clinics are both owned and operated by the same nonprofit organization with the same board of directors.

~~(d)–~~

(4) The parent and affiliate clinics' operational policies and procedures are substantially the same.

~~(e)–~~

(5) The parent and affiliate clinics both follow substantially the same training, competency testing, and quality assurance standards for health care staff performing the same or similar functions. If an affiliate clinic will be providing primary care services different from the parent clinic, the professional director

1 shall develop training, competency testing, and quality assurance  
2 standards in conjunction with the appropriate personnel at the  
3 affiliate clinic. It shall not be necessary for the professional  
4 director to be the same for all sites.

5 ~~(f)–~~

6 (6) The parent clinic has submitted evidence to the department  
7 establishing compliance with the minimum construction standards  
8 of adequacy and safety of the affiliate clinic's physical plant  
9 pursuant to subdivision (b) of Section 1226.

10 ~~(g)–~~

11 (b) *The department shall approve or deny licensure under this*  
12 *section within 30 days of receipt of the completed application.*

13 (c) Nothing in this section shall prohibit the department from  
14 conducting a licensing inspection at any time after receipt of the  
15 completed application.

16 ~~SEC. 6.—~~

17 SEC. 5. Section 1218.2 is added to the Health and Safety  
18 Code, to read:

19 1218.2. Notwithstanding any other provision of law,—~~a~~  
20 ~~primary care clinic with more than one site~~ *two or more primary*  
21 *care clinics that are operated by a single nonprofit corporation*  
22 *shall be entitled to consolidate its their administrative functions*  
23 *without first obtaining the approval of the department. The*  
24 *administrative functions may include, but are not limited to, all of*  
25 *the following:*

26 (a) *Offsite storage and maintenance of patient medical records*  
27 *that have been inactive for at least three years.*

28 (b) *Offsite storage and maintenance of personnel records,*  
29 *except that copies of specific records documenting the employees'*  
30 *date of hire, general qualifications, proof of current licensure if*  
31 *applicable, training, and annual health checks shall be kept at the*  
32 *site at which the employee provides all or a majority of his or her*  
33 *services.*

34 (c) *Billing and related financial functions.*

35 (d) *Purchasing functions.*

36 ~~SEC. 7.—~~

37 SEC. 6. Section 1226.1 is added to the Health and Safety  
38 Code, to read:

39 ~~1226.1.—A primary care clinic shall comply with department~~  
40 ~~requirements regarding annual health examinations, vaccination,~~

~~or other public health protections for clinic personnel and volunteers, which shall be no more stringent than requirements applied to health facilities licensed under Chapter 2 (commencing with Section 1250).~~

1226.1. (a) A primary care clinic shall comply with the following requirements regarding annual health examinations, vaccination, and other public health protections for individuals working in a primary care clinic:

(1) An employee working in a primary care clinic who has direct contact with patients shall have a health examination within six months prior to employment or within 15 days after employment. Each examination shall include a medical history and physical evaluation. A written examination report, signed by the person performing the examination, shall verify that the employee is able to perform his or her assigned duties.

(2) At the time of employment, testing for tuberculosis shall consist of a purified protein derivative intermediate strength intradermal skin test. If a positive reaction is obtained from the skin test, the employee shall be referred to a physician to determine if a chest X-ray is necessary. Annual examinations shall be performed only when medically indicated.

(3) The clinic shall maintain a health record for each employee that includes reports of all employment-related health examinations. These records shall be kept for a minimum of three years following termination of employment.

(4) An employee known to have or exhibiting signs or symptoms of a communicable disease shall not be permitted to work until he or she submits a physician's certification that the employee is sufficiently free of the communicable disease to return to his or her assigned duties.

(b) Any regulation adopted before January 1, 2004, that imposes a standard this is more stringent than described in this section is void.

~~SEC. 8.—~~

SEC. 7. Section 1226.2 is added to the Health and Safety Code, to read:

~~1226.2.—The director shall appoint a minimum of 15 members to the~~

1226.2. The Community Clinics Advisory Committee provided for in subdivision (b) of Section 1226. This committee

~~shall meet on an ad hoc basis and shall be composed of individuals who are employed or under contract to provide services to a community clinic on a full-time basis, as well as representatives of at least three nonprofit associations that represent 50 or more community clinic sites each.~~

*SEC. 9.— subdivision (b) of Section 1226 shall meet on an ad hoc basis and shall be comprised of at least 15 individuals who are employed by, or under contract to provide service to, a community clinic on a full-time basis, either directly or as a representative of a clinic association. Members of the committee shall be appointed by the three statewide primary care clinic associations in California that represent the greatest number of community or free clinic sites.*

*SEC. 8. Section 1226.3 is added to the Health and Safety Code, to read:*

*1226.3. A primary care clinic may establish compliance with the minimum construction standards of adequacy and safety for the physical plant described in subdivision (b) of Section 1226 by submitting a written statement from a licensed architect or a local building department certifying that the applicable construction, submitting a written certification, as described in Section 5536.36 of the Business and Professions Code, from a licensed architect or a written statement from a local building department that the applicable construction, remodeling, alteration, or other applicable modification of the physical plant is in compliance with these standards, and that the individual signing the statement is competent to determine that compliance. Enforcement of compliance with applicable provisions of the building code California Building Standards Code, pursuant to subdivision (b) of Section 1226, shall be within the exclusive jurisdiction of the local building department.*

~~SEC. 10.—~~

*SEC. 9. Section 1228 of the Health and Safety Code is amended to read:*

*1228. (a) Except as provided in subdivision (c), every clinic for which a license or special permit has been issued shall be periodically inspected. The frequency of inspections shall depend upon the type and complexity of the clinic or special service to be inspected. Inspections shall be conducted no less often than once*

every ~~two~~ *three* years and as often as necessary to ensure the quality of care being provided.

(b) (1) During inspections, representatives of the department shall offer any advice and assistance to the clinic as they deem appropriate. The department may contract with local health departments for the assumption of any of the department's responsibilities under this chapter. In exercising this authority, the local health department shall conform to the requirements ~~to~~ *of* this chapter and to the rules, regulations, and standards of the department.

(2) The department shall reimburse local health departments for services performed pursuant to this section, and these payments shall not exceed actual cost. Reports of each inspection shall be prepared by the representative conducting it upon forms prepared and furnished by the department and filed with the department.

(c) This section shall not apply to any of the following:

(1) A rural health clinic.

~~(2) A primary care clinic accredited by either the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) or the Accreditation Association for Ambulatory Health Care (AAHC).~~

*(2) A primary care clinic accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), the Accreditation Association for Ambulatory Health Care (AAHC), or any other accrediting organization recognized by the department.*

(3) An ambulatory surgical center.

(4) An end stage renal disease facility.

(5) A comprehensive outpatient rehabilitation facility that is certified to participate either in the Medicare program under Title XVIII (42 U.S.C. Sec. 1395 et seq.) of the federal Social Security Act, or the medicaid program under Title XIX (42 U.S.C. Sec. 1396 et seq.) of the federal Social Security Act, or both.

(d) Notwithstanding paragraph (2) of subdivision (c), the department shall retain the authority to inspect a primary care clinic pursuant to Section 1227, or as necessary to ensure the quality of care being provided.

~~SEC. 11.—~~

1     *SEC. 10.* Section 1229.1 is added to the Health and Safety  
2 Code, to read:

3     1229.1. No notification of deficiency, civil or criminal  
4 penalty, fine, sanction, or denial, suspension, or revocation of  
5 licensure, may be imposed against a primary care clinic, or any  
6 person acting on behalf of the clinic, for a violation of a regulation,  
7 as defined in Section 11342.600 of the Government Code,  
8 including every rule, regulation, order, or standard of general  
9 application, or the amendment, supplement, or revision of any  
10 rule, regulation, order, or standard adopted by a state agency to  
11 implement, interpret, or make specific the law enforced or  
12 administered by it, or to govern its procedure, unless the regulation  
13 has been adopted pursuant to Chapter 3.5 (commencing with  
14 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
15 Code.

16     ~~SEC. 12.~~

17     *SEC. 11.* Section 1231 of the Health and Safety Code is  
18 amended to read:

19     1231. (a) All clinics shall maintain compliance with the  
20 licensing requirements. These requirements shall not, however,  
21 prohibit the use of alternate concepts, methods, procedures,  
22 techniques, space, equipment, personnel qualifications, or the  
23 conducting of pilot projects, provided these exceptions are carried  
24 out with provision for safe and adequate patient care and with prior  
25 written approval of the department. A written request and  
26 substantiating evidence supporting the request shall be submitted  
27 by the applicant or licensee to the state department. *Where a*  
28 *licensee submits a single program flexibility request and*  
29 *substantiating evidence on behalf of more than one similarly*  
30 *situated primary care clinic, the department may approve the*  
31 *program flexibility request as to each of the primary care clinics*  
32 *identified in the request.* The department shall approve or deny any  
33 request within 60 days of submission. This approval shall be in  
34 writing and shall provide for the terms and conditions under which  
35 the exception is granted. A denial shall be in writing and shall  
36 specify the basis therefor.

37     (b) A primary care clinic shall be deemed to have submitted  
38 sufficient substantiating evidence supporting a request for  
39 utilization of alternatives to personnel requirements contained in  
40 regulations adopted under this chapter if the clinic is in a

1 geographic area that is either deemed under federal law, or  
2 designated by the Office of Statewide Health Planning and  
3 Development, as a medically underserved area, a health  
4 professional shortage area, or as serving, in whole or in part, a  
5 medically underserved population.

6 (c) If after investigation the department determines that a clinic  
7 granted a waiver pursuant to this section is operating in a manner  
8 contrary to the terms or conditions of the waiver, the director shall  
9 immediately revoke the waiver *as to that clinic site*.

10 ~~SEC. 13.~~

11 *SEC. 12.* No reimbursement is required by this act pursuant  
12 to Section 6 of Article XIII B of the California Constitution  
13 because the only costs that may be incurred by a local agency or  
14 school district will be incurred because this act creates a new crime  
15 or infraction, eliminates a crime or infraction, or changes the  
16 penalty for a crime or infraction, within the meaning of Section  
17 17556 of the Government Code, or changes the definition of a  
18 crime within the meaning of Section 6 of Article XIII B of the  
19 California Constitution.

